

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

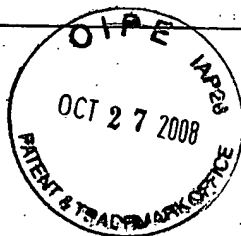
In re Application of

Franz EBERHARD et al.

Serial No.: 10/540,902

Filed: March 18, 2006

For: LASER DIODE BAR PROVIDED WITH A  
PARALLEL CONNECTED DIODE FOR  
BRIDGING SAID LASER DIODE BAR IN  
CASE OF FAILURE



Examiner: Golub, Marcia A.

Group Art: 2828

Commissioner for Patents  
Alexandria, VA 22313-1450

**DECLARATION OF FRANZ EBERHARD UNDER 37 C.F.R. § 1.131**

S I R:

I, Franz EBERHARD, do hereby declare and state as follows:

1. I reside at Flösserstrasse 6, 93059 Regensburg, Germany.
2. I am one of the co-inventors of the above-identified U.S. patent application (the "subject application"), which is U.S. national stage of International Patent Application PCT/DE03/03683 filed November 6, 2003 and claiming priorities to German patent applications 10261309.5 and 10306312.9 filed December 27, 2002 and February 14, 2003, respectively..

2.1. A copy of the executed Declaration filed in March 9, 2006 in the subject application is attached hereto as Exhibit A.

2.2. The priority claims were perfected upon applicants' submission of verified English translations of the German priority patent applications on April 10, 2008.

3. I have reviewed and understand the subject application, including the claims originally filed, and any and all claim amendments thereafter (the "Claimed Invention").

#### **Conception**

4. We conceived Claimed Invention prior to September 19, 2002 (the reference date of U.S. Patent 6,728,275 issued to Stephens), as evidenced by the Invention Disclosure and its appendices attached in Exhibit B.

4.1. The Invention Disclosure was completed on September 16, 2002, as is shown by the handwritten date in the upper right corner of the first page below the label "Datum der Ausfertigung" (*i.e.*, Date of Execution).

4.2. An English-language translation of the second page of the Invention Disclosure and the appendices is attached hereto as Exhibit C. The English-language translation shows that the Invention Disclosure and its appendices support the Claimed Invention.

#### **Due Diligence**

5. The Invention Disclosure was submitted to and received by the inventors' supervisor on September 16, 2002 as is shown by the handwritten date in the upper right column on the first page below the label "Eingang am" (*i.e.*, Received On).

6. The Invention Disclosure was reviewed and analyzed by the inventors' supervisor between September 16, 2002 to September 24, 2002.

7. On September 24, 2002, the Invention Disclosure was forwarded to and received by Dr. E. Nirschl, the IP Manager of OSRAM Opto Semiconductors GMBH ("OSRAM"), as is evident from Dr. Nirschl's receipt stamp in the lower right column on the first page of the Invention Disclosure.

8. Dr. Nirschl reviewed the Invention Disclosure from September 24, 2002 to September 27, 2002. On September 27, 2002, the Invention Disclosure was forwarded to and

received by the law firm of Epping Hermann Fischer in Munich, Germany ("EHF"). EHF's receipt stamp is shown at the bottom of the first page of the Invention Disclosure.

9. During the time period from September 27, 2002 to November 12, 2002, the attorneys at the law firm EHF studied the Invention Disclosure, evaluated the subject matter described in the Invention Disclosure, and prepared for and scheduled a patent evaluation meeting with the officials from OSRAM on November 12, 2002. EHF also prepared a declaration document for transferring the right to the invention to my employer, OSRAM, as required by German Patent Law (the "declaration document") and forwarded the declaration document to me on October 29, 2002.

10. On November 12, 2002, the patent committee meeting was held and attended by the following personnel:

- Dr. Ernst Nirschl (IP Manager of OSRAM);
- Dr. Karsten Diekmann (Division Manager);
- Dr. Dieter Eißler (Division Manager);
- Dr. Volker Härle (Division Manager);
- Johann Luft (Division Manager);
- Dr. Klaus Streubel (Division Manager);
- Günter Waitl (Division Manager);
- Dr. Michael Schwind (Division Manager and co-inventor); and
- Richard Schachtner (Patent Attorney of EHF).

During the meeting, the attendees discussed and decided to proceed filing a German patent application for the subject matter described in the Invention Disclosure.

11. During the time period from November 12, 2002 to December 27, 2002, the law firm of EHF worked reasonably hard in drafting a new patent application covering the subject matter disclosed in the Invention Disclosure.

12. On December 17, 2002, I signed the declaration document for transferring the right to the invention and returned the signed declaration document for transferring the right to the invention to the law firm of EHF.

13. EHF subsequently filed German patent application 10261309.5 on December 27, 2002, to which the international phase of the subject application claims priority.

14. On February 14, 2003, EHF filed German patent application 10306312.9, to which the international phase of the subject application claims priority.

15. As is clear from the foregoing, the Claimed Invention was conceived of prior to the September 19, 2002 reference date of U.S. Patent 6,728,275 issued to Stephens. Applicants and those involved in preparing and filing the subject application on applicants' behalves, have exhibited due diligence from September 16, 2002 up to the filing date of the German priority applications on December 27, 2002 and February 14, 2003, respectively.

16. I declare that all statements made herein of my own knowledge are true; that all statements made herein on information and belief to be true; and further that these statements were made with the knowledge that willful, false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of this patent application and any patent resulting therefrom.

Date: 23th September 2008 By: Franz Eberhard  
Franz EBERHARD